

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5494 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 No.

RAJU MANUBHAI PATEL

Versus

COMMISSIONER OF POLICE

Appearance:

MS KRISHNA U MISHRA for Petitioner

MR HL JANI for the Respondents.

RULE NOT RECD BACK for Respondent No. 2

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 03/08/98

ORAL JUDGEMENT

The petitioner, who is detained by an order dated 18-10-98 passed by the Police Commissioner, Ahmedabad City, under Section 3 (1) of the Gujarat Prevention of Anti-Social Activities Act, 1985 (hereinafter referred to as "the PASA Act"), has filed this petition under Article 226 of the Constitution of India challenging the

legality and validity of the order of detention.

In the grounds of detention supplied to the petitioner, reliance is placed by the detaining authority on as many as five criminal cases registered against the petitioner for the alleged offence under Sections 379 and 114 of the Indian Penal Code for which investigation was in progress when the order of detention was passed. Over and above these cases, further reliance is also placed on the statements of four witnesses for the alleged incidents which took place on 2-10-97 and 5-10-97 when the concerned witnesses were beaten on the suspicion that they were keeping watch over the movement of the petitioner. There after the witnesses were not only beaten but were also robbed with the result that many people gathered. However, they started running helter-skelter when the petitioner rushed towards them with open knife.

On the basis of the aforesaid material, the detaining authority recorded a finding that the petitioner is a dangerous person within the meaning of Section 2(c) of the PASA Act and with a view to preventing him from acting in any manner prejudicial to the maintenance of public order, passed the impugned order of detention against the petitioner, which has been challenged by the petitioner by way of this petition.

This petition is required to be allowed on the ground that assuming for the sake of arguments that the allegations made against the petitioner are true, the same at best can be treated as breaches of law and order and not public order. I have gone through the statements of the witnesses which are stereo-type. Reading the same, it clearly establishes without any manner of doubt that the statements are quite general and vague in nature and the alleged incidents are against individuals and the general public is not concerned at all and, therefore, it cannot be contended that the petitioner is involved in committing breaches of public order. Even if the allegations made are believed to be true, the same at best can be termed as breach of law and order and in no circumstances the same can be termed as breach of public order. Consequently, therefore, the satisfaction arrived at by the detaining authority that the petitioner is a dangerous person is also visited. The order of detention is therefore liable to be quashed and set aside.

In the result, this petition is allowed.

The order of detention dated 18-1097 is quashed and set aside. The detenu Raju Manubhai Patel is ordered to be released forthwith if not required in connection with any other offence. Rule is made absolute accordingly with no order as to costs.

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